

**FIRST AMENDMENT TO THE  
AMENDED AND RESTATED  
AGREEMENT FOR THE DEVELOPMENT  
OF  
COUNTY ROADS 466-A, 462 AND 139**

**THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED AGREEMENT** ("First Amendment") is made and entered into this 10 day of February, 2009, by and among **THE VILLAGES OF LAKE-SUMTER, INC.**, a Florida corporation, whose address is 1020 Lake Sumter Landing, The Villages, Florida 32162 (hereinafter called "**Developer**"); **SUMTER COUNTY**, a political subdivision of the State of Florida, whose address is 910 North Main Street, Bushnell, Florida 33513 (hereinafter called "**County**"); and **CITY OF WILDWOOD**, a municipality of the State of Florida, whose address is 100 North Main Street, Wildwood, Florida 34785 (hereinafter called "**City**").

**RECITALS**

**WHEREAS**, on October 17, 2006, the Developer, the County, and the City entered into an Amended and Restated Agreement for the Development of County Roads 466-A, 462 and 139 (hereinafter the "Agreement"), and

**WHEREAS**, at this time, the Developer, the County, and the City desire to enter into this First Amendment to amend certain provisions of the Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained and other good and valuable consideration, the parties agree that certain provisions of the Agreement are hereby amended.

1. **Section 3.C. of the Agreement is hereby restated as follows:**

3. **IMPACT FEE CREDITS.**

C. Impact Fee Credits, Reimbursement from Impact Fees, and Records. Subject to the limitations set forth in Section 3.B. above, the Developer shall be entitled to a combination of impact fee credits, and reimbursement from all District No.1 Transportation Impact Fees to the extent such impact fees have not previously been reimbursed to the Developer or utilized as credits against District No.1 Impact Fees.

(1) Records. The Developer may apply for a credit and/or reimbursement from the Road Construction District No. 1 Transportation Impact Fees collected by the County based upon the percentage of the work completed by delivering to the County a certification by a third party licensed Project Engineer indicating the percentage of work completed through the date of certification, which credit shall be available to the Developer upon inspection, approval and acceptance by the County. The Developer will pay Transportation Impact Fees pursuant to such ordinance until the County's first approval of a portion of the credit entitlement under this Agreement. During construction, such impact fee credit shall accrue, and/or reimbursement paid to the Developer in an amount equal to 90% of the cost of the Project completed. Upon completion of the Project, 100% of the cost associated shall be available for credit and/or reimbursement to the Developer upon inspection, approval and acceptance by the County. Transportation Impact Fees paid by the Developer to the County before the date the Developer first establishes impact fee credits shall be rebated to the Developer to the extent of the Developer's impact fee credit entitlement on a monthly basis. Notwithstanding the fact that the Developer has established an impact fee credit balance, the Developer shall continue to make payment for Transportation Impact Fees on or before the issuance of building permits. If the Developer has not previously assigned its impact fee credits pursuant to Section 3.D. below, within fifteen (15) days after the end of each month, the County shall rebate to the Developer an amount equal to previous month's end balance of impact fees paid by the Developer, provided such rebate amount does not exceed the existing credit entitlement available to the Developer. The amount of each monthly rebate shall be deducted from the credit entitlement available to the Developer. The County shall deliver to the Developer monthly reports indicating all activity on the account during the month, and the month end credit balance. The Developer shall keep or provide for retention of adequate records and supporting documentation which concern or reflect total Project cost. This information will be available to the County, or its duly authorized agent or representative, for audit, inspection or copying, for a minimum of five (5) years from the termination of this Agreement.

2. Section 3.D. of the Agreement is hereby restated as follows:

D. Assignment of the Impact Fee Credits by the Developer. The impact fee credits shall be fully transferable and assignable by the Developer in accordance with this section. Prior to the issuance of a building permit, the owner of the Developer contribution credit must file an application to assign the credits with the Sumter County Planning Director. An assignment of Impact Fee Credits must meet the following requirements to be accepted by the Sumter County Planning Director:

- (i) Developer contribution credits can only be assigned once, not including any collateral assignment in favor of a bank, a community development district created pursuant to Florida Statutes Chapter 190, or other local unit of special purpose government; and
- (ii) The assignment must be within the same road construction district.

Upon acceptance of the assignment, the Sumter County Planning Director will debit the owner assignor's Developer contribution credit account and credit the assignee's account.

3. Section 3.G. of the Agreement is hereby deleted in its entirety.

4. All other terms and provisions of the Agreement shall remain the same except as specifically amended herein.

IN WITNESS WHEREOF, the parties have duly executed this First Amendment on the day and year above first written.



TEST:

Georgia Hayward, Clerk of the Court

BOARD OF COUNTY COMMISSIONERS  
SUMTER COUNTY, FLORIDA

Garry Breeden, Chairman

Approved as to Form  
and Legal Sufficiency

Sumter County Attorney

**ATTEST:**

By: 

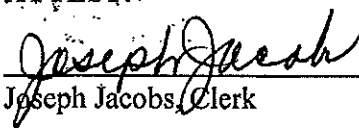
Gary L. Meyer, Vice President

**THE VILLAGES OF LAKE-SUMTER, INC.**

By: 

Mark G. Morse, President

**ATTEST:**

  
Joseph Jacobs, Clerk

**CITY OF WILDWOOD**

  
Ed Wolf, Mayor

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Revised: February 10, 2009  
Printed: February 10, 2009

**AGREEMENT BETWEEN THE CITY OF WILDWOOD  
AND THE VILLAGES OF LAKE-SUMTER, INC., CONCERNING  
ISSUES RELATED TO THE WIDENING OF COUNTY ROAD 139**

THIS AGREEMENT is made and entered into this 27 day of Oct, 2009, by and among THE VILLAGES OF LAKE-SUMTER, INC., a Florida corporation, whose address is 1020 Lake Sumter Landing, The Villages, Florida 32162 (hereinafter called "the Villages"); and CITY OF WILDWOOD, a municipality of the State of Florida, whose address is 100 North Main Street, Wildwood, Florida 34785 (hereinafter called "City").

The parties agree as follows:

1. The parties have entered into that certain agreement by and between the City, Sumter County and the Villages (Amended and Restated Agreement for the Development of County Roads 466-A, 462 and 139, signed October 17, 2006), which allows for the widening of County Road 139.

2. As a part of the realignment of County Road 139, the City will have to:

- a. Move certain walking trails located on the City's property;
- b. Move certain soccer fields located in Millennium Park;
- c. Move a portion of the driveway entry into the Millennium Park Recreation Center;
- d. Redesign and build a new sign and entranceway to the park; and,
- e. Landscape the entryway.

3. The Villages will assist the City in redesign and moving the amenities that make up the walking trails from the site where they are currently placed to another site on the Millennium Park property. In assisting the City, the Villages will provide

engineering/design services for the redesign, manpower for the actual move and the cost of any items that need to be replaced because of the move. The walking trails are used on a daily basis and should be moved prior to any roadway construction.

4. The Villages will assist the City in the redesign and moving of the amenities that will make up the soccer fields from the site where they are currently placed to another site on the Millennium Park property. In assisting the City, the Villages will provide engineering/design services for the redesign, manpower for the actual move and the cost of any items that need to be replaced because of the move. The soccer fields at Millennium Park have scheduled activities planned during the proposed roadway construction so the relocation of these fields will need to take place prior to any roadway construction so as to not disrupt those events.

5. The Villages will be responsible for design and placing landscaping within the entrance to the park. The landscape will be similar to and contain the type of landscaping used within the Villages.

6. The Villages will be responsible for redesign and construction of the entranceway to the Millennium Park. The entranceway design will be similar to and the design used by the Villages in the area. The new entranceway is to include a monument sign consistent with the City and the Villages typical Commercial Design Standards.

7. The Villages agrees that construction costs for the 139 project will include removal of the old Millennium Park driveway and the portion of 139 that will no longer to be used as a roadway.

8. The Villages agrees to place a five foot (5') wide paved sidewalk along the Western side of County Road 139 all the way to County Road 44A.

9. The Villages agrees that during the construction, a temporary driveway may be installed to provide access to the property that the City is currently leasing to Life Flight.

10. The City will require utility work done in the right of way of 139. The City and the Villages will enter into an agreement with the general contractor selected by the Villages to allow the City's utility work to be done by the general contractor selected by the Villages at the time of construction of the road with the City purchasing the material and paying for that portion of the work being done by the general contractor selected by the Villages to construct the lines.

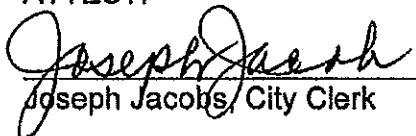
11. The City will also provide, pursuant to that agreement, to the general contractor selected by the Villages reasonable build out scenarios for the City's property which will be on the East side of 139 after construction so that the general contractor selected by the Villages may also design the stormwater system that will be necessary to serve that area.

12. The costs for the design and engineering of the revised Millennium Park plan, any plan reviews and permitting costs are to be reimbursed to the City by the Villages.

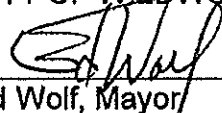
**IN WITNESS WHEREOF**, the parties have executed Agreement the day and year first above written.

**AS TO THE CITY:**

ATTEST:

  
\_\_\_\_\_  
Joseph Jacobs, City Clerk

CITY OF WILDWOOD, FLORIDA

  
\_\_\_\_\_  
Ed Wolf, Mayor

**AS TO THE VILLAGES:**

**ATTEST:**

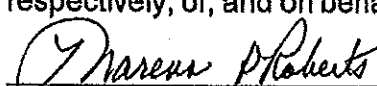
By:   
Martin L. Dzuro, Vice President

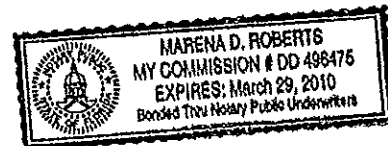
**THE VILLAGES, OF LAKE-SUMTER,  
INC.**

By:   
Mark G. Morse,  
President

**STATE OF FLORIDA  
COUNTY OF SUMTER**

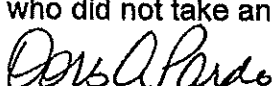
The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of May, 2009, by **Ed Wolf and Joseph Jacobs**, the Mayor and City Clerk, respectively, of, and on behalf of the **City of Wildwood, Florida**, who did not take an oath.

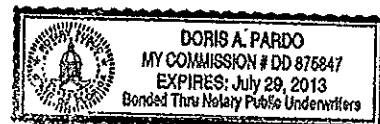
  
Notary Public - State of Florida  
Print Name MARENA D. ROBERTS  
My Commission Expires: 3-29-2010  
Serial/Commission Number DD 496475  
Personally known ☒ or ☐ produced identification  
Type of identification produced: \_\_\_\_\_



**STATE OF FLORIDA  
COUNTY OF SUMTER**

The foregoing instrument was acknowledged before me this 19 day of AUGUST, 2009, by **Mark G. Morse**, Executive Vice President, and **Martin L. Dzuro**, Vice President, respectively, of, and on behalf of **The Villages of Lake-Sumter, Inc.**, who did not take an oath and who is personally known.

  
Notary Public - State of Florida  
Print Name Doris A. Pardo  
My Commission Expires: \_\_\_\_\_  
Serial/Commission Number \_\_\_\_\_





**Douglas, Jessica**

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**From:** Arnold, Bradley  
**Sent:** Tuesday, May 18, 2010 7:16 PM  
**To:** Douglas, Jessica  
**Subject:** FW: Amendment to The Villages Impact Fee Credit Agreement  
**Importance:** High  
**Attachments:** Impact Fee Amendment Agreement Revised 5-18-10 (00210230).DOC; 00210033.DOC  
The resolution will be before the amendment contract on the agenda. Please remind me to do the ES since they will be similar to each other!!!!

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**From:** Arnold, Bradley  
**Sent:** Tuesday, May 18, 2010 4:38 PM  
**To:** Moyer, Gary  
**Cc:** Steve Roy; Derrill McAteer; John Lege  
**Subject:** Amendment to The Villages Impact Fee Credit Agreement  
**Importance:** High

Gary,

Attached you will find the 2 word documents associated with a resolution to be passed in advance of the amendment to the impact fee credit agreement. The intent is to allow for the dissolution of the "old" accounts and the proceeds contained therein to move to the "new" and only impact fee account. The obligation of the County to provide reimbursement to The Villages for the projects remains, any conflicts viewed with the "new" ordinance is resolved, and John Lege's financial and our budgeting process improves.

We intend to have this on the May 25<sup>th</sup> agenda for BOCC consideration. Your prompt review and comment would be appreciated as well as those copied.

Bradley

5/19/2010

## Arnold, Bradley

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**From:** Arnold, Bradley  
**Sent:** Wednesday, May 19, 2010 12:14 PM  
**To:** Lege, John - Finance Director  
**Cc:** Derrill McAteer; Gloria Hayward  
**Subject:** RE: Wildwood agreement

**Importance:** High

John,

Please proceed since Derrill's legal opinion is that it meets the nexus.

Bradley

-----Original Message-----

**From:** John Lege [mailto:jlege@sumterclerk.com]  
**Sent:** Wednesday, May 19, 2010 11:53 AM  
**To:** Arnold, Bradley  
**Cc:** Gloria Hayward; 'Derrill McAteer'  
**Subject:** RE: Wildwood agreement

Bradley,

Here is my understanding....As you know, impact fees must pass the dual rational nexus test. First, impact fees are valid when a reasonable connection, or rational nexus, exist between the anticipated need for additional capital facilities and the growth in population. Second, impact fees are valid when a reasonable connection, or rational nexus, exist between the expenditure of the impact fee proceeds and the benefit from the growth of those proceeds. The impact fees in question are Transportation Impact Fees. Therefore, there must be a reasonable connection or rational nexus for the use of Transportation Impact Fees for the relocation of a recreational soccer field.

We discussed the fact that a proper use of transportation impact fees would be to acquire property for growth necessitated capital improvements. The County would do this either by agreement with property owners or through the court process. What is unclear to me is the connection between the agreement between the Developer and Wildwood and the request to use transportation impact fees to reimburse the Developer for an agreement he has made with Wildwood to relocate the soccer field.

I would probably make a recommendation to Ms. Hayward to seek a legal opinion in order to make certain that the reimbursement to the Developer for the relocation of the soccer field is a proper use of transportation impact fees. It is not clear enough in my mind to feel comfortable without seeking an opinion from someone who has a better understanding than I do.

Thank,  
John

John Lege  
Finance Director  
Sumter County Clerk of Court  
209 North Florida Street  
Bushnell, Fl. 33513  
Phone: 352-793-0249  
Fax: 352-793-0242  
jlege@sumterclerk.com

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you do not wish to have your email address open to public inspection, please contact our office directly.\*\*

-----Original Message-----

From: Arnold, Bradley [mailto:Bradley.Arnold@sumtercountyfl.gov]  
Sent: Wednesday, May 19, 2010 11:06 AM  
To: John Lege  
Cc: Gloria Hayward; Derrill McAteer  
Subject: RE: Wildwood agreement  
Importance: High

John,

I am not sure exactly what you are saying. We have an impact fee credit agreement to reimburse the developer and all costs associated with the road project which includes the costs associated with the Wildwood/Developer agreement. In fact the reference to the County as a third party is in direct relationship to the road impact fee credit agreement. I most certainly can gain approval by the BOCC of the Wildwood/Developer agreement. Derrill previously prepared and will again for this meeting another memorandum that states that the impact fees can be utilized for this reimbursement. What is the basis that the auditor would challenge the legal is opinion is where I am lost - please explain.

Bradley

-----Original Message-----

From: John Lege [mailto:jlege@sumterclerk.com]  
Sent: Wednesday, May 19, 2010 9:41 AM  
To: Arnold, Bradley  
Cc: Gloria Hayward  
Subject: FW: Wildwood agreement

Bradley,

This appears to be an agreement between Wildwood and the Developer. I am not sure how this agreement fits into the BOCC authorizing the use of impact fees to reimburse the developer. There appears to be no question that that Wildwood and the Developer have an agreement. However, the concern is the use of impact fees to reimburse the developer. I would think that the County has to be part of that agreement in some way. However, I am not relying on a legal opinion only an opinion from the County's auditors as to the proper use of impact fees.

Thanks,  
John

John Lege  
Finance Director  
Sumter County Clerk of Court  
209 North Florida Street  
Bushnell, Fl. 33513  
Phone: 352-793-0249  
Fax: 352-793-0242  
jlege@sumterclerk.com

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-----Original Message-----

From: Arnold, Bradley [mailto:Bradley.Arnold@sumtercountyfl.gov]  
Sent: Tuesday, May 18, 2010 4:48 PM  
To: John Lege  
Subject: FW: Wildwood agreement  
Importance: High

John,

The attached agreement should suffice as the documentation necessary to support the reimbursement of the work identified in section 2. Due to the fact that the impact fee credit agreement allows for reimbursements of costs associated with the road project, is there any additional documentation you feel is necessary?

If you can respond by noon tomorrow I would appreciate it so I don't have to add any additional documentation to the agenda regarding this.

Bradley

-----Original Message-----

From: Moyer, Gary [mailto:Gary.Moyer@thevillages.com]  
Sent: Tuesday, May 18, 2010 12:00 PM  
To: Arnold, Bradley  
Subject: Wildwood agreement

<<20100518115433298.pdf>> Brad, I sent this a few minutes ago but my computer doesn't show that it has been sent so I am doing it again.

20100518115433298.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

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The Board of Sumter County Commissioners is a public agency subject to Chapter 119 of Florida Statutes concerning public records.

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